

22.06.2026
Sl. No.33
Ct. No.14
gd

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

**W.P.A. No. 16789 of 2025
Sagarika Sanyal
versus
The State of West Bengal & Ors.**

Md. Sarwar Jahan,
Ms. Tapati Sarkar,
Ms. Shalini Sen
Ms. Sahiuna Parvin
...for the Petitioner.

Mr. Arindam Chattopadhyay,
Ms. Lipika Chatterjee
...for the DPSC, Nadia.

Mr. Brijendra Pratap Singh
Mr. Asit Kumr De
...for the State.

1. By the present writ petition, the petitioner seeks for quashing and/or cancellation of the order under Memo No.1233/NDPSC/2025 dated 3rd July, 2025 issued by the respondent No.5, Chairman, Nadia District Primary School Council rejecting the prayer of the petitioner for early retirement.
2. The petitioner contends that she is presently an Assistant Teacher in Hansadanga Primary School under Sadar-I Circle, Nadia. The petitioner is suffering from chronic obstructive pulmonary disorder. Due to her critical medical condition the petitioner could not attend her school on and from 1st February, 2020. Under compelling circumstances, the petitioner approached this Court in WPA 5455 of 2023 seeking for her transfer to a nearby school or if not possible for premature retirement from her service

with all retiral dues as per entitlement. The coordinate Bench of this Court directed the Commissioner of School Education to consider the matter sympathetically. By the order dated 16th October, 2023, the Commissioner of School Education after recording the suffering of the petitioner directed the Chairman, DPSC, Nadia to take appropriate steps under the West Bengal Primary Education (Leave of Teacher of Primary Schools) Rules, 1999 as well as allow the petitioner to rejoin her present school and thereafter take necessary steps to transfer the petitioner to a nearby school, namely, Sree Ramkrishna Vivekananda Shikshayatan Primary School on the ground of her illness. The petitioner was allowed to join in Hansadanga Primary School under Sadar-I Circle, Nadia on 8th January, 2024. However, with the aggravation of the illness, the petitioner again made a representation for her early retirement with pensionary benefits on 25th January, 2025. Since that was not considered, the petitioner filed another writ petition being WPA 5489 of 2025. By order dated 12th March, 2025, the co-ordinate Bench of this Court directed for consideration of the representation of the petitioner by the Chairman of the Council. On 3rd July, 2025 the prayer of the petitioner for early retirement was rejected citing Rule 19 of the West Bengal Primary School Teachers Recruitment Rules, 2016. Being aggrieved and dissatisfied with the

impugned order dated 3rd July, 2025 of respondent No.5, Chairman, Nadia District Primary School Council the petitioner has preferred the present writ petition.

3. Md. Sarwar Jahan, learned advocate for the petitioner submits that under the Rules of Death-cum-Retirement Benefit Scheme 1981 a person being declared permanently incapacitated for further service by the Chief Medical Officer concerned may be allowed to retire if he qualifies ten years of service. The petitioner has already qualified 10 years of service to receive pension. The provisions of the DCRB Scheme, 1981 has not been taken into consideration by the authority concerned while considering the representation of the petitioner and it proceeded on a wrong notion that the petitioner has to complete 20 years of qualifying service in order to have early retirement.
4. Mr. Arindam Chattopadhyay, learned advocate representing DPSC, Nadia submits that as per Rule 8(iii) of the DCRB Scheme, 1981 the prayer of an employee for early retirement can be considered on medical ground, if upon examination he/she is declared permanently incapacitated by the concerned Chief Medical Officer. He files the report of the Chairman, Nadia District Primary School Council dated 2nd June, 2026 which is taken on record.
5. Upon hearing the learned advocates for the respective parties, the only issue which falls for consideration is

whether the impugned order dated 3rd July, 2025 of respondent No.5, Chairman, Nadia District Primary School Council is sustainable or not.

6. It is fact that the Chairman, Nadia District Primary School Council has rejected the application of the petitioner seeking for early retirement as per provisions laid down in Rule 19 of West Bengal Primary School Teachers Recruitment Rules, 2016 introduced vide Gazette notification no.190-SE dated 2nd March, 2016 issued by the Elementary Education Branch, School Education Department, Government of West Bengal providing for premature retirement. However, it failed to consider Rule 8(iii) of the DCRB Scheme, 1981 which provides that subject to satisfactory service, an employee shall be entitled to pension on being declared permanently incapacitated for further service by the Chief Medical Officer of the State Government in the district concerned or any Medical Officer of equivalent status authorised by the pension sanctioning authority, provided that he has completed at least ten years of qualifying service. In the present case at hand the petitioner has admittedly completed ten years of service. In its report as well the respondent no.5 has conceded that an employee is entitled to pension as per Rule 8(iii) of the DCRB Scheme, 1981 on being declared permanently incapacitated for further service by the concerned Chief Medical Officer and has completed ten years of service.

7. In such backdrop and considering the submissions advanced on behalf of the respective parties, the impugned order dated 3rd July, 2025 of the respondent no.5, Chairman, Nadia District Primary School Council is hereby set aside.
8. Accordingly, Respondent No.5, Chairman, Nadia District Primary School Council is directed to take steps for medical examination of the petitioner by Chief Medical Officer Health (CHOH), Krishnanagar, Nadia. On receipt of medical examination report of the petitioner he shall thereafter consider the representation of the petitioner for early retirement in terms of Rule 8(iii) of the DCRB Scheme, 1981 and dispose of the same in accordance with law by passing a reasoned order within a period of six weeks from the date of communication of this order.
9. The reasoned order shall be communicated to the petitioner within one week from passing thereof.
10. Learned advocate for the petitioner is directed to communicate this order to respondent no.5, Chairman, Nadia District Primary School Council, for necessary compliance.
11. With the aforesaid directions, the writ petition being **WPA 16789 of 2025** stands disposed of.
12. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
13. Interim order, if any, stands vacated.
14. All connected applications, if any, stand disposed of.

15. There shall be no order as to costs.

16. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.

17. Urgent Photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(Bivas Pattanayak, J.)